MISSOURI DEPARTMENT OF TRANSPORTATION
QUOTATION GUIDELINES AND DOCUMENTATION

THIS IS NOT AN ORDER

REQUEST FOR QUOTE

It is the vendor's responsibility to read and comply with all conditions, specifications, and instructions outlined in this document. This document and any subsequent attachments shall supersede all confirmation forms, receipts, or any other paperwork needed to secure materials, equipment, or services.

TODAY'S DATE: OCTOBER 1, 2008	**DUE BY (DATE AND TIME):** OCTOBER 14, 2008 @ 10:30 AM	**F.O.B. REQUIREMENTS: DESTINATION** (SEE DELIVERY LOCATIONS BELOW)
TO BE DELIVERED: REFER TO VARIOUS LEASE DATES LISTED BELOW.	**BID #: Q03-09-0018**	**BUYER NAME**: TANYA DAUMA, CPPB PHONE: 573-248-2486 FAX: 573-248-2468

District Mailing Address: Missouri Department of Transportation Attn: Tanya Dauma, CPPB P.O. Box 1067 Hannibal, MO 63401	**Delivery Location(s):** Missouri Department of Transportation – District 3 SEE DELIVERY LOCATIONS LISTED BELOW:

If delivery will not be prior to scheduled lease dates, list delivery dates in the "Vendor Notes Section" on page 5.

Qty	Description and Delivery Location	Monthly Price	Extended Price
1	**<u>Motorgrader, similar to a JD 770 series, 6 wheel drive</u>** **Approximately December 1, 2008 – February 28, 2008** **3+/- month lease** Center, MO **Please state Make and Model:**		
1	**<u>Motorgrader, similar to a JD 770 series, 6 wheel drive</u>** **Approximately November 1, 2008 – April 30, 2008** **6+/- month lease** Frankford, MO **Please state Make and Model:**		
	The attached Master Lease Agreement must be signed and returned with the bid. Failure to do so will eliminate consideration of bid.		

VENDOR NAME:

BASE LEASE REQUIREMENTS

1.0 GENERAL
The intent and purpose of the following requirements and specifications is to establish minimum quality, safety and performance standards for monthly leasing of motorgraders, in addition to, describe a motorgrader with engineering and design that will assure trouble-free operation with a minimum amount of down time.

2.0 BASE LEASE
MoDOT will accept bids on new or used units. However, **the unit delivered must be completely covered by a manufacturer's or lessor's warranty, which includes replacement/repair parts, labor and transportation costs for the entire length of the lease period.** The complete units must be manufactured in accordance with the latest adopted OSHA or SAE Standards and amendments thereto. **Parts and service availability MUST be within 24-48 hours of contact.**

In the event the successful vendor has an opportunity to sell a machine that is under lease contract with MoDOT, MoDOT will allow for this as long as a suitable replacement can be supplied without causing downtime for MoDOT crews.

3.0 DELIVERY & INSPECTION
Delivery will be by appointment only to allow the MoDOT Area Mechanic to do a complete inspection of the unit, at which time; photos will be taken to document the condition of the machine. An official representative of the successful bidding company shall be present to participate in the inspection. If a unit has not been provided by the lease period start date, the compensation due the lessor will be reduced at a rate of $250.00 per day for all working days a unit is not available during the lease period. If this exceeds 10 working days, MoDOT reserves the right to obtain another unit from the next low bidder or other resources. At the end of the lease period when the unit is to be picked up, no unit will be released to a freight hauling company, unless the successful bidding company representative has properly inspected the unit in the presence of a MoDOT Area Mechanic. All costs associated with delivery and pickup of leased units is the responsibility of the lessor.

4.0 MAINTENANCE AND REPAIR
The department will furnish fuel, grease lubricant of chassis, and normal maintenance cleaning. The lessor will be responsible for all scheduled oil changes and periodic services required by manufacturer or lessor. The lessor shall furnish all necessary lubricants, replacement filters (oil, fuel, air filters, etc.), replacement/repair parts, labor and transportation. The lessor will supply MoDOT with the manufacturers and/or lessor's scheduled hourly maintenance chart(s), which MoDOT will use as a guide to contact lessor when unit needs serviced.

5.0 DOWNTIME
If the unit is unavailable for use for **more than 48-hours**, at any time, **the lessor must substitute a loan unit of mutually agreed upon type**. The substitute unit must be provided within 3 days after the initial 2 days of downtime has accrued, unless a MoDOT representative agrees to a more flexible arrangement offered by the lessor. If after this time a substitute unit has not been provided or the original unit has not been repaired, the compensation due the lessor will be reduced at a rate of $250.00 per day for all working days a unit is not available during the lease period, including the initial downtime. If this exceeds 10 working days, MoDOT reserves the right to obtain another unit from the next low bidder or other resources. If such a unit is obtained, MoDOT reserves the right to terminate the original lease with the first vendor and will continue with the second vendor for the duration of the original lease period. All costs associated with delivery and pickup of leased units is the responsibility of the lessor.

6.0 VEHICLE DAMAGE
The department will be responsible for abuse or damage to the unit beyond normal expected wear and tear for highway maintenance operations. The maximum damage claim will be established at 75% of the manufacturers suggested retail price. A copy of the manufacturers suggested retail price is to be provided at the time of delivery and retained as part of the contract.

7.0 PAYMENT
Payments will be processed monthly. Lessor must include the purchase order number and building name on each invoice to expedite payment.

8.0 AWARD
Award of this bid will be made on an "Item By Item" basis using the "lowest and best" principle of award. Consideration will be given to hours per unit, in addition to, an inspection of the unit where necessary to check condition versus hours.

VENDOR NOTES

USE THIS AREA TO LIST ANY CIRCUMSTANCES WHICH MIGHT ALTER YOUR BID PRICE (SIZE, MAKE, MODEL, SPECIFICATION, ETC.) AND/OR AVAILABILITY OF UNITS TO BE DELIVERED:

Missouri Department of Transportation purchase orders must be issued to the invoicing company/address. **If the invoicing company/address will be different from that listed in the vendor information section (below), the vendor must specify the "remit to" company/address in the vendor notes section (above).**

VENDOR INFORMATION

Vendor Name/Mailing Address: Email Address:	Vendor Contact Information (including area codes): Phone #: Fax #: Cellular #:
Printed Name and Title of Responsible Officer or Employee:	Signature:

Is your company registered/certified with the State of Missouri as a (please circle):

MINORITY BUSINESS ENTERPRISE (MBE) ?	YES	NO
WOMEN BUSINESS ENTERPRISE (WBE) ?	YES	NO
Would your company like information on becoming a registered/certified MBE/WBE vendor?	YES	NO

All responses to this Request for Bid MUST be submitted on this form and **ALL Pages, except the term and condition pages (which require no written information) can be mailed or faxed to the Buyer listed on page 1.**

PREFERENCE IN PURCHASING PRODUCTS

DATE: _____

The bidders attention is directed to Section 34.076 RsMO 1986 which gives preference to Missouri corporations, firms, and individuals when letting contracts or purchasing products.

Bids/Quotations received will be evaluated on the basis of this legislation.

All vendors submitting a bid/quotation must furnish <u>ALL</u> information requested below.

FOR CORPORATIONS:

State in which incorporated: _____

FOR OTHERS:

State of domicile: _____

FOR ALL VENDORS:

List address of Missouri offices or places of business:

_____

_____

_____

_____

_____

_____

_____

THIS SECTION MUST BE COMPLETED AND SIGNED:

FIRM NAME: _____

ADDRESS: _____

CITY: _____ **STATE:** _____ **ZIP:** _____

BY (signature required): _____

Federal Tax I.D. #: _____ **if no Federal Tax I.D. # - list Social Security #:** _____

NOTE: For bid/quotation to be considered, the "Preference in Purchasing Products" form must be on file in the General Services (Procurement) Division and must be dated in the current calendar year.

CCO Form: GS07
Approved: 09/05 (BDG)
Revised: 07/07 (AR)
Modified:

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
MASTER SHORT TERM LEASE AGREEMENT

THIS AGREEMENT is entered into by and between _____ (hereinafter, "Lessor") and the Missouri Highways and Transportation Commission (hereinafter, "Commission").

WHEREAS, the Commission leases various tools or construction and heavy equipment from the Lessor from time to time, and

WHEREAS, Lessor and Commission intend to enter into short term equipment lease agreements pursuant to this Master Short Term Lease Agreement (the "Agreement"), the terms and conditions of which shall control any and all short term leases exchanged between the Lessor and the Commission.

NOW THEREFORE, in consideration of the above premises and mutual promises contained herein, and for the good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Lessor and the Commission mutually agree as follows:

(1) PRE EMINENCE OF MASTER SHORT TERM LEASE AGREEMENT AND TERM. The terms and conditions of this Agreement shall control all equipment lease transactions between the parties and shall supersede any and all written terms and conditions contained in Lessor rental agreement forms, documents, receipts, or memoranda except for the identification of the equipment to be rented by the Commission, the rental rate of the equipment, and return date of equipment. All other conditions contained in any Lessor rental agreement forms, documents, receipts, or memoranda shall be of no effect and force whatsoever. The initial term of the Agreement shall be for a period of two (2) years, automatically renewable upon mutual consent of the parties for one (1) additional two-year period. Either party may terminate the Agreement at any time and for any reason whatsoever upon sixty (60) days written notice to the other.

(2) NATURE OF THIS AGREEMENT. This purpose of the Agreement is to create and coordinate short-term lease transactions, which will allow the Commission to use the equipment provided by the Lessor as permitted by this Agreement. The Commission represents that the equipment leased pursuant to this Agreement is to be used solely and exclusively for Commission related activities. The Lessor retains equipment ownership. The Commission acknowledges that the Commission may not transfer the equipment or any rights or obligations under this Agreement. The Commission shall not service or repair or alter the equipment without Lessor's prior written approval.

(3) EQUIPMENT: The Lessor will make available to Commission equipment referenced on the Lessor's equipment rental form, document or memorandum signed by an employee of Commission.

(4) TRAINING AND INSPECTION: The Lessor will provide a training session for Commission employees upon receipt of equipment. The training session may include inspection of the rented equipment for damage and how to report same, checking required fluid levels and general equipment operation.

(5) RETURN OF EQUIPMENT: The Commission will notify Lessor of intended equipment return upon acceptance of said equipment and as may be identified in the Lessor's rental form, document or memoranda. The Commission agrees that during the course of the rental, the equipment will be held in a safe and secure manner while it is in the Commission's care, custody or control.

(6) TITLE: The Lessor warrants that it is the lawful owner of the equipment and that the equipment is free from all encumbrances which would disturb the use of the equipment identified in the Rental Agreement Form.

(7) EQUIPMENT OPERATION. The following persons may operate the equipment: Commission and Missouri Department of Transportation employees, contractors, and agents, in the course of such employee's regular employment, and contractor employees during the course of performing work. Operators must be properly qualified to operate the equipment and have a valid operator's license with respect to the equipment where required by law.

(8) LEASE CHARGES: The Commission will pay all lease charges, time, mileage, service, transportation, refueling service and other charges and sums in accordance with this Agreement. The basic daily, weekly or monthly lease rate will be identified on the equipment rental form, document, memoranda, or receipt and invoiced by the Lessor upon return of the equipment to the Lessor.

(9) RISK OF LOSS: The Commission shall be responsible for all loss of or damage to the equipment, unless such loss or damage results from latent defect(s) or fault or negligence on the part of Lessor, while on rental and in Commission's care, custody or control, including but not limited to, fire, flood, theft, comprehensive losses, collision and rollover. Such responsibility is limited to: (1) reasonable repair cost or (2) the fair market value of the equipment at the time it is lost or damaged, less its salvage value.

(10) INSURANCE: The Commission is self-insured against liability losses up to statutory insurance coverage caps, and will provide proof of self-insurance upon request by the Lessor.

(11) INDEMNIFICATION: The Lessor will defend, indemnify and hold harmless Commission, its subsidiaries, parent company and their officers, agents and employees from and against all loss, liability, claim action or expense, including reasonable attorneys' fees, by reason of bodily injury, including death, and property damage, sustained by any person or persons, including but not limited to employees of Commission, to the extent of Lessor's negligent maintenance, use, possession, operation, erection, dismantling, servicing or transportation of the equipment or Lessor's failure to comply with the terms of this Agreement.

(12) LAW OF MISSOURI TO GOVERN: This Agreement shall be construed according to the laws of the State of Missouri. The Lessor shall comply with all local, state and federal laws and regulations relating to the performance of this Agreement.

(13) CONDITION OF THE EQUIPMENT. The Lessor warrants the equipment, upon delivery to Commission, to be in good mechanical and merchantable condition. The Commission's acceptance or use of Equipment constitutes Commission's acknowledgment that the equipment is in working condition at that time. The Commission agrees to provide Lessor reasonable access to the equipment.

(14) FORCE MAJEURE/INFRINGEMENT. Any failure of performance by either party due to causes beyond reasonable control, including but not limited to acts of civil or military authority or Acts of God will not be deemed to be a default by either party.

(15) MERGER/MODIFICATION/SEVERABILITY. This Agreement expresses the entire agreement between the parties with respect to the subject matter of this Agreement. No change, modification or alteration of the terms hereof will be effective against either party unless it is in writing and signed by a duly authorized officer of both parties. If any provision or any part of any provision of this Agreement or the application thereof is hereafter held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and to this end the provisions of this Agreement are declared severable.

(16) EXECUTIVE ORDER: The Lessor shall comply with all the provisions of Executive Order 07-13, issued by the Honorable Matt Blunt, Governor of Missouri, on the sixth (6th) day of March, 2007. This Executive Order, which promulgates the State of Missouri's position to not tolerate persons who contract with the state engaging in or supporting illegal activities of employing individuals who are not eligible to work in the United States, is incorporated herein by reference and made a part of this Agreement.

(A) By signing this Agreement, the Lessor hereby certifies that any employee of the Lessor assigned to perform services under the contract is eligible and authorized to work in the United States in compliance with federal law.

(B) In the event the Lessor fails to comply with the provisions of the Executive Order 07-13, or in the event the Commission has reasonable cause to believe that the Lessor has knowingly employed individuals who are not eligible to work in the United States in violation of federal law, the Commission reserves the right to impose such contract sanctions as it may determine to be appropriate, including but not limited to contract cancellation, termination or suspension in whole or in part or both.

(17) VENUE: It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

IN WITNESS WHEREOF, the parties have entered into this Agreement on the date last written below.

Executed by the Lessor this ___ day of _____, 20___.

Executed by the Commission this ___ day of _____, 20__.

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION	LESSOR
_____	By _____
Title _____	Title _____
Attest:	Attest:
_____ Secretary to the Commission	By _____ Title _____
Approved as to Form:	Approved as to Form:
_____ Commission Counsel	By _____ Title _____

STANDARD SOLICITATION PROVISIONS

a. The Missouri Department of Transportation (MoDOT) reserves the right to reject any or all bids/quotes/proposals, and to accept or reject any items thereon, and to waive technicalities. In case of error in the extension of prices in the bid/quote/proposal, unit prices will govern.

b. All bids/quotes/proposals must be signed with the firm name and by a responsible officer or employee. Obligations assumed by such signature must be fulfilled.

c. By virtue of statutory authority, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown, within the State of Missouri.

d. Time of delivery is a part of the consideration and, if not otherwise stated in the solicitation documents, must be stated in definite terms by the Bidder/Offeror and must be adhered to. If time varies on different items, the Bidder/Offeror shall so state.

e. If providing bids/quotes/proposals for commodities, the Bidder/Offeror will state brand or make on each item. If bidding or proposing other than the make, model or brand specified, the manufacturer's name, model number or catalog number must be given.

f. **For bids/proposals of $25,000** or more, no bids/proposals by telephone, telegram or telefax will be accepted.

g. The date specified for the returning of bids/quotes/proposals is a firm deadline and all bids/quotes/proposals must be received at the designated office by that time. The Department does not recognize the U.S. Mail, Railway Express Agency, Air Express, or any other organization, as its agent for purposes of accepting proposals. All proposals arriving at the designated office after the deadline specified will be rejected.

GENERAL TERMS AND CONDITIONS

General Performance

a. This work is to be performed under the general supervision and direction of the Missouri Department of Transportation (MoDOT) and, if awarded any portion of the work, the Contractor agrees to furnish at his own expense all labor and equipment required to complete the work, it being expressly understood that this solicitation is for completed work based upon the price(s) specified and is not a solicitation for rental of equipment or employment of labor by MoDOT, and MoDOT is to have no direction or control over the employees used by the Contractor in performance of the work.

Deliveries

a. Unless otherwise specified on the solicitation documents or purchase order, suppliers shall give at least 24 hours advance notice of each delivery. Delivery will only be received between the hours of 8:00 a.m. to 3:00 p.m., Monday through Friday. Material arriving after 3:00 p.m. will not be unloaded until the following workday. No material will be received on Saturday, Sunday or state holidays.

b. If the prices bid herein include the delivery cost of the material, the Contractor agrees to pay all transportation charges on the material as FOB - Destination. Freight costs must be included in the unit price bid and not listed as a separate line item.

c. Any demurrage is to be paid by the Contractor direct to the railroad or carrier.

Nondiscrimination

a. The Contractor shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

b. All solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of the Contractor's obligations under this contract and the Regulations, will be relative to nondiscrimination on the grounds of race, color, or national origin.

1) Sanctions for Noncompliance: In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, MoDOT shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

i. withholding of payments to the Contractor under the contract until the Contractor complies, and/or,

ii. cancellation, termination or suspension of the contract, in whole or in part.

Contract/Purchase Order

a. By submitting a bid/quote/proposal, the Bidder/Offeror agrees to furnish any and all equipment, supplies and/or services specified in the solicitation documents, at the prices quoted, pursuant to all requirements and specifications contained therein.

b. A binding contract shall consist of: (1) the solicitation documents, amendments thereto, and/or Best and Final Offer (BAFO) request(s) with any changes/additions, (2) the Contractor's proposal and/or submitted pricing, and (3) the MHTC's acceptance of the proposal and/or bid by purchase order or post-award contract.

c. A notice of award does not constitute an authorization for shipment of equipment or supplies or a directive to proceed with services. Before providing equipment, supplies and/or services, the Contractor must receive a properly authorized purchase order and/or notice to proceed.

d. The contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained therein. Any change, whether by modification and/or supplementation, must be accomplished by a formal contract amendment signed and approved by and between the duly authorized representative of the Contractor and the duly authorized representative of the MHTC, by a modified purchase order prior to the effective date of such modification. The Contractor expressly and explicitly understands and agrees that no other method and/or no other document, including correspondence, acts, and oral communications by or from any person, shall be used or construed as an amendment or modification.

Subcontracting

a. It is specifically understood that no portion of the material or any interest in the contract, shall be subcontracted, transferred, assigned or otherwise disposed of, except with the written consent of MoDOT. Request for permission to subcontract or otherwise dispose of any part of the work shall be in writing to MoDOT and accompanied by documentation showing that the organization which will perform the work is particularly experienced and

equipped for such work.

b. Consent to subcontract or otherwise dispose of any portion of the work shall not be construed to relieve the Contractor of any responsibility for the production and delivery of the contracted work and the completion of the work within the specified time.

c. All payments for work performed by a subcontractor shall be made to the Contractor to whom the contract was awarded and the purchase order issued.

Invoicing and Payment

a. MoDOT is exempt from paying Missouri Sales Tax, Missouri Use Tax and Federal Excise Tax. However, the Contractor may themselves be responsible for the payment of taxes on materials they purchase to fulfill the contract. A Federal Excise Tax Exemption Certificate will be furnished to the successful Bidder/Offeror upon request.

b. Each invoice should be itemized in accordance with items listed on the purchase order and/or contract. The statewide financial management system has been designed to capture certain receipt and payment information. Therefore, each invoice submitted must reference the purchase order number and must be itemized in accordance with items listed on the purchase order. Failure to comply with this requirement may delay processing of invoices for payment.

c. Unless otherwise provided for in the solicitation documents, payment for all equipment, supplies, and/or services required herein shall be made in arrears. The Missouri Highways and Transportation Commission (MHTC) shall not make any advance deposits.

d. The MHTC assumes no obligation for equipment, supplies, and/or services shipped or provided in excess of the quantity ordered. Any authorized quantity is subject to the MHTC's rejection and shall be returned at the Contractor's expense.

e. The MHTC reserves the right to purchase goods and services using the state-purchasing card.

Applicable Laws and Regulations

a. The contract shall be construed according to the laws of the State of Missouri. The Contractor shall comply with all local, state, and federal laws and regulations related to the performance of the contract.

b. The Contractor must be registered and maintain good standing with the Secretary of State of the State of Missouri and other regulatory agencies, as may be required by law or regulations. Prior to the issuance of a purchase order and/or notice to proceed, the Contractor may be required to submit to MoDOT a copy of their current Authority Certificate from the Secretary of State of the State of Missouri.

1) Prior to the issuance of a purchase order and/or notice to proceed, all **out-of-state** Contractors **providing services** within the state of Missouri must submit to MoDOT a copy of their current Transient Employer Certificate from the Department of Revenue, in addition to a copy of their current Authority Certificate from the Secretary of State of the State of Missouri.

c. The exclusive venue for any legal proceeding relating to or arising, out of the contract shall be in the Circuit Court of Cole County, Missouri.

Executive Order

a. The Contractor shall comply with all the provisions of Executive Order 07-13, issued by the Honorable Matt Blunt, Governor of Missouri, on the sixth (6th) day of March, 2007. This Executive Order, which promulgates the State of Missouri's position to not tolerate persons who contract with the state engaging in or supporting illegal activities of employing individuals who are not eligible to work in the United States, is incorporated herein by reference and made a part of this Agreement.

1) "By signing this Agreement, the Contractor hereby certifies that any employee of the Contractor assigned to perform services under the contract is eligible and authorized to work in the United States in compliance with federal law."

2) In the event the Contractor fails to comply with the provisions of the Executive Order 07-13, or in the event the Commission has reasonable cause to believe that the contractor has knowingly employed individuals who are not eligible to work in the United States in violation of federal law, the Commission reserves the right to impose such contract sanctions as it may determine to be appropriate, including but not limited to contract cancellation, termination or suspension in whole or in part or both.

3) The Contractor shall include the provisions of this paragraph in every subcontract. The Contractor shall take such action with respect to any subcontract as the Commission may direct as a means of enforcing such provisions, including sanctions for noncompliance.

Preferences

a. In the evaluation of bids/quotes/proposals, preferences shall be applied in accordance with Chapter 34 RSMo. Contractors should apply the same preferences in selecting subcontractors.

b. By virtue of statutory authority, RSMo. 34.076 and 34.350 to 34.359, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown within the State of Missouri. Such preference shall be given when quality is equal or better and delivered price is the same or less.

1) If attached, the document entitled **"PREFERENCE IN PURCHASING PRODUCTS"** should be completed and returned with the solicitation documents.

2) If attached, the document entitled **"MISSOURI DOMESTIC PRODUCTS PROCUREMENT ACT"** should be completed and returned with the solicitation documents**. Applies if bid is Twenty-Five Thousand Dollars ($25,000.00) or more.**

c. In the event of a tie of low bids, the MHTC reserves the right to establish the method to be used in determining the award

Remedies and Rights

a. No provision in the contract shall be construed, expressly or implied, as a waiver by the MHTC of any existing or future right and/or remedy available by law in the event of any claim by the MHTC of the Contractor's default or breach of contract.

b. The Contractor agrees and understands that the contract shall constitute an assignment by the Contractor to the MHTC of all rights, title and interest in and to all causes of action that the Contractor may have under the antitrust laws of the United States or State of Missouri for which causes of action have accrued or will accrue as the result of or in relation to the particular equipment, supplies, and/or services purchased or produced by the Contractor in the fulfillment of the contract with the MHTC.

c. In the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request MoDOT to enter into such litigation to protect the interests of the MHTC, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

Cancellation of Contract

a. The MHTC may cancel the contract at any time for a material breach of contractual obligations or for convenience by providing the Contractor with written notice of cancellation. Should the MHTC exercise its right to cancel the contract for such reasons, cancellation will become effective upon the date specified in the notice of cancellation sent to the Contractor.

b. If the MHTC cancels the contract for breach, the MHTC reserves the right to obtain the equipment, supplies, and/or services to be provided pursuant to the contract from other sources and upon such terms and in such manner as the MHTC deems appropriate and charge the Contractor for any additional costs incurred thereby.

Bankruptcy or Insolvency

a. Upon filing for any bankruptcy or insolvency proceeding by or against the Contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assigned the benefit or creditors, the Contractor must notify MoDOT immediately. Upon learning of any such actions, the MHTC reserves the right, at its sole discretion, to either cancel the contract or affirm the contract and hold the Contractor responsible for damages.

Inventions, Patents, and Copyrights

a. The Contractor shall defend, protect, and hold harmless the MHTC, its officers, agents, and employees against all suits of law or in equity resulting from patent and copyright infringement concerning the Contractor's performance or products produced under the terms of the contract.

Inspection and Acceptance

a. No equipment, supplies, and/or services received by MoDOT pursuant to a contract shall be deemed accepted until MoDOT has had reasonable opportunity to inspect said equipment, supplies, and/or services.

b. All equipment, supplies, and/or services which do not comply with the specifications and/or requirements or which are otherwise unacceptable or defective may be rejected. In addition, all equipment, supplies, and/or services which are discovered to be defective or which do not conform to any warranty of the Contractor upon inspection (or at any later time if the defects contained were not reasonably ascertainable upon the initial inspection) may be rejected.

c. The MHTC reserves the right to return any such rejected shipment at the Contractor's expense for full credit or replacement and to specify a reasonable date by which replacements must be received.

d. The MHTC's right to reject any unacceptable equipment, supplies, and/or services shall not exclude any other legal, equitable or contractual remedies the MHTC may have.

Warranty

a. The Contractor expressly warrants that all equipment, supplies, and/or services provided shall: (1) conform to each and every specification, drawing, sample or other description which was furnished to or adopted by MoDOT, (2) be fit and sufficient for the purpose expressed in the solicitation documents, (3) be merchantable, (4) be of good materials and workmanship, and (5) be free from defect.

b. Such warranty shall survive delivery and shall not be deemed waived either by reason of the MHTC's acceptance of or payment for said equipment, supplies, and/or services.

Status of Independent Contractor

a. The Contractor represents itself to be an independent Contractor offering such services to the general public and shall not represent itself or its employees to be an employee of the MHTC. Therefore, the Contractor shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers' compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save and hold the MHTC, its officers, agents and employees harmless from and against any and all losses (including attorney fees) and damage of any kind related to such matters.

Indemnification

a. The Offeror shall defend, indemnify and hold harmless the Commission, including its members and department employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the Offeror's performance of its obligations under this Agreement.